BOMBAY REGULATION II OF 1827.[1]

[*1st January 1827.*]

Repealed in part by Act 1 of 1846;
" " " " " 10 of 1861;
" " " " " 10 of 1873;
" " " " " 12 of 1873;
" " " " " 12 of 1876;
" " " " " 18 of 1879;
(as amended by Act 1 of 1903);
" " " " Bom. 6 of 1866; (locally) by Act 14 of 1869; and amended by Act 16 of 1895.

Repealed excepting part of section 21 by Bom. 17 of 1920.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

A Regulation for defining the constitution of Courts of Civil Justice, and the powers and duties of the Judges and offices thereof.

PREAMBLE. *Rep. Act XIV of 1869.*

CHAPTER I.

[*Supreme Court of Sadr Adálat.*]

to 15. *Rep. Act XII of 1873.*

CHAPTER II.

OF ZILA COURTS INCLUSIVE OF THE SUBSIDIARY COURTS OF THE ASSISTANT JUDGES.

16 to 20. [*Appointment of Judge; his Court; his seal; his oath; acting Judge.*] *Rep. Act XIV of 1869.*

21. *First.—The jurisdiction of the Civil Court shall extend to the cognizance of all original suits and complaints between Natives and others not British-born subjects, respecting the right to moveable or immovable property, rents, Government-revenues, debts, contracts, marriage, succession, damages for injuries and generally of all suits and complaints of a civil nature*[2]; it being understood that no interference on the part of the Court in caste-questions is hereby warranted, beyond the admission and trial of any suit instituted for the recovery of damages on account of an alleged injury to the caste and character of the plaintiff, arising from some illegal act or unjustifiable conduct of the other party. Caste questions.

---

[1] Sections 21, 47 to 54 and 56 of Bom. Reg. 2 of 1827 were declared by the Laws Local Extent Act, 1874 (15 of 1874), s. 5, in force throughout the Province of Bombay, except as regards the Scheduled Districts, i.e., the villages belonging to the following Mehwassi Chiefs:—

(1) The Parvi of Kathi.
(2) The Parvi of Nal.
(3) The Parvi of Singpur.
(4) The Walwi of Gaohalli.
(5) The Wassawa of Chikhli.
(6) The Parvi of Nawalpur.

So much of Bom. Reg. 2 of 1827 as had not already been repealed (excepting the part of section 21 which prohibits interference of the Civil Courts in caste questions) was repealed in the whole of the Province of Bombay by Bom. 17 of 1920, s. 34 and Sch. I.

[2] S. 21, *clause* first (except so much as prohibits interference of the Civil Courts in caste-questions), was repealed by Act 10 of 1861 and Act 14 of 1869.

Second to Seventh.—[*Provisoes as to admission of suits; jurisdiction over British-born subjects.*] *Rep. Acts X of 1861 and XIV of 1869.*

22 to 33. [*Jurisdiction; superintendence of inferior Courts; complaints against public officers; control of civil jail; subordination to higher Courts; appointment of Judges; oaths; duties; law officers; nazir; sherishtadar; record-keeper; administration of oaths.*] *Rep. Act XIV of 1869.*

CHAPTERS III AND IV.

[*Appointment, Removal and Punishment of Officers of Courts; Courts of Commissioners for deciding civil suits.*]

34 to 44. *Rep. Act XIV of 1869.*

CHAPTER V.

[*Courts for Recovery of Debts due by British Subjects.*]

45, 46. *Rep. Act X of 1861.*

CHAPTER VI.

OF PLEADERS.[1]

Authorized pleaders to hold sanads.

47. *First.*—Natives or others may be authorized to practise in each Court as pleaders (vakils)[2] in behalf of parties in any judicial proceeding, being qualified by sanad according to the rules in the succeeding section.

Persons allowed to act.

Second.—No person shall be allowed to act in any such proceeding except such pleaders, or the parties themselves or their recognized agents * * *[3].

Third.—[*Exception as to Court of Commissioner.*] *Rep. Act I of 1846.*

Government pleader may hold general vakalátnáma.

Fourth.—In matters to which [4][the Crown or the Federal Railway Authority] is a party, it shall be lawful for a pleader to act on a general vakalátnáma, to be issued by the officer under whose control the said matters are conducted, provided a duplicate be deposited in the Zila Court of the district in which he practises.

Number of pleaders unlimited.

48. *First.*—The number of pleaders shall not be limited, but any person duly qualified and of unexceptionable character shall be entitled to a sanad of appointment.[2]

Second.—[*Qualifications; appointment how made.*] *Rep. Act I of 1846.*

Sanads to be furnished.

Third.—Each pleader, on being found qualified, shall be furnished with a sanad, under the seal of the Court of Sadr Diwáni Adálat, in the form of Appendix J[2].

Practice of pleaders how regulated.

49. The pleaders in the Zila Courts shall practise each in such particular Court or Courts as may be assigned to them by the Zila Judge, or indiscriminately in all the Courts of the respective Zila, if it be not found necessary to appropriate the pleaders to particular Courts.

Pleader to file vakálatnáma.

50. *First.*—A pleader shall not be allowed to act in any suit or proceeding until he has obtained from the party, and filed in Court, a power-of-attorney (vakálatnáma), according to the form contained in Appendix K, appointing him pleader in the cause.

---

[1] See also ss. 13 [except clauses (*a*), (*b*), (*c*), (*d*) and (*f*)], 34, 36 and 40 of the Legal Practitioners Act, 1879 (18 of 1879), which have been extended to the Province of Bombay.

[2] *Cf.* Act 1 of 1846, ss. 4 and 5.

[3] Portion repealed by Act 12 of 1873 is omitted.

[4] The words "the Crown or the Federal Railway Authority" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Second.—If a party engages a pleader to act in his behalf, he shall present him with eight annas as a retaining fee, for which the pleader shall grant him a written acknowledgment, specifying the date of payment; and, if the said retaining fee be not offered, the pleader shall demand it, and abstain from all proceeding until it be delivered[1]. Retaining fee to be paid to pleader.

Third.—If, after receiving the retaining fee, a pleader shall engage with, or act for, the other party, or refuse or omit to act on behalf of his client, he may be punished by a fine not exceeding rupees five hundred; or, if the matter in litigation be less than rupees two hundred and fifty, then not exceeding twice the amount of the sum in dispute between the parties; or, if the circumstances are of an aggravated nature, may be suspended or dismissed [2]* * *. Penalty for failure to perform engagements.

Fourth.—The fine may be inflicted by the Court in which the suit relative to which the failure of duty occurred may be pending [3]* * * * *. Court empowered to fine.

51. *First.*—[*Representative character of pleader.*] *Rep. Act X of 1861.*

Second.—It shall be incumbent on a pleader,—at the time of receiving any accounts, writings or documents from his client, to give a written receipt for them, and to restore them when required, under penalty of a fine not exceeding rupees one hundred, to be levied under the [4]* * * last clause of the preceding section; or, if the circumstances be of an aggravated nature, of suspension or[5] [dismissal] [6]* * *. Pleader to give receipts to client for papers and to return them when required. Penalty for misconduct.

[7]**52.** *First.*—Each pleader employed in prosecuting or defending an original suit shall be entitled to a percentage on the amount sued for, according to the rates specified in Appendix L, as a remuneration for his trouble in acting in behalf of his client, until the decree in the suit is passed, and thereafter until such decree is fulfilled. Fees in original suits.

Second.—The remuneration to a pleader employed in prosecuting or defending an appeal, regular or special, shall be the same as is above prescribed in the case of an original suit. In Appeals.

Third.—The above rules shall not prevent an express agreement being entered into between pleader and client, for either a larger or smaller sum than the established fee. Private agreement not barred.

Fourth.—But, if a larger sum than was agreed for between a pleader and client is awarded in costs against the other party, the pleader, notwithstanding his agreement with his own client, shall be entitled to the excess when recovered. Pleader to have excess when costs awarded against other party exceed amount agreed upon.

Fifth.—[*Recovery of fees.*] *Rep. Act. XII of 1873.*

53. *First.*—[*Half-fees.*] *Rep. Act XII of 1873.*

Second.—Either party may engage two or more pleaders to conduct his suit or defence, but the party found liable in costs will not be answerable for more than the established fee of one pleader on behalf of the other party. Several pleaders may be engaged, but without prejudice to opposite party.

---

[1] *Cf.* Act 1 of 1846, ss. 7 and 8.

[2] The words and figures "under the rules contained in section 56 of this Regulation" were repealed by the Amending Act, 1895 (16 of 1895).

[3] Words repealed by Act 12 of 1873 are omitted. *Cf.* Act 1 of 1846, ss. 10 and 12.

[4] The words "rules contained in the" were repealed by the Amending Act, 1895 (16 of 1895).

[5] The word "dismissal" was substituted for the word "dismission", *ibid.*

[6] The words and figures "according to section 56 of this Regulation" were repealed, *ibid.*

[7] S. 52 is modified by ss. 6 and 7 of Act 1 of 1846.

Client may withdraw his vakalatnáma, but pleader not to withdraw without his consent or order of Court.

Third.—It shall be competent to a party at any time to withdraw the authority vested in a pleader to act in his behalf, on giving the Court notice in writing to that effect; but it shall not be competent to a pleader to withdraw from acting in behalf of his client without his consent or the special permission of the Court.

Fourth.—[*Fees in certain cases.*] *Rep. Act XII of 1873.*

Pleader's absence to be reported. Penalty for absence without notice.

54. *First.*—If a pleader is unable to attend the Court in consequence of indisposition or other necessary cause, he shall notify the same to the Court in writing, in which case proceeding in the suit shall be stayed for such time as the Court deems reasonable, to enable the party to transfer by endorsement or otherwise his power-of-attorney (either temporarily or until the suit is determined) to another pleader; and any pleader absenting himself without written notice as above prescribed may be punished by fine not exceeding rupees one hundred, to be adjudged by the Court in which the failure of duty occurred, and levied as the amount of a decree by the same [1]* * * *.

Stay of proceedings on resignation or death.

Second.—In case of the resignation, dismissal or death of a pleader, proceedings in the suit shall in like manner be stayed [1]* * * *.

55. [*Fees in certain cases.*] *Rep. Act I of 1846.*

Pleaders liable to suspension or dismissal without prejudice to private action for damages.

56. A pleader accused of a criminal offence, or guilty of misbehaviour or neglect of duty, shall be liable to be suspended or dismissed [2]* * *; but nothing herein contained shall prevent a party from instituting an action for damages against his pleader, when he may consider himself injured by his acts or omissions.

APPENDICES A TO I.

[*Rep. Acts XII of 1876, X of 1873, XII of 1873 and VI of 1866.*]

APPENDIX J.

(*See section 48, clause third.*)

FORM OF SANAD GRANTED TO A PLEADER.

Seal of the Sadr Diwáni Adálat.

To *A. B.*, inhabitant of—.

In conformity with the provisions of Regulation II, A. D. 1827, you, A. B., are hereby appointed to the office of Pleader in the Court of—; you will not be liable to be removed from your situation during your good behaviour, while you discharge your duty with zeal and integrity, under the rules contained in the Regulations which now are or hereafter may be in force.

By order of the Sadr Diwáni Adálat.

(*Signed by the Registrar.*)

[1] Words repealed by Act 12 of 1873 are omitted.

[2] The words and figures "under the rules regarding Commissioners, contained in the third clause of section 38 of this Regulation" were repealed by the Amending Act, 1895 (16 of 1895).

APPENDIX K.

(See section 50, clause first.)

FORM OF POWER-OF-ATTORNEY TO ENABLE A PLEADER TO ACT IN A SUIT.

IN THE COURT OF———

Suit for Rs.————

————*Plaintiff.*

against

————*Defendant.*

I————plaintiff (*or* defendant, *as the case may be*) do hereby authorize ————to appear and act as Pleader for me in the above suit.

Witness my hand, this————day of————, 19——.

(*Signed or the mark of*) { The Plaintiff / *or* / Defendant.

APPENDIX L.

(See section 52, clause first.)

STATEMENT SHOWING THE FEES TO WHICH PLEADERS ARE ENTITLED FOR ACTING THROUGHOUT ORDINARY SUITS WHEN THERE IS NO SPECIFIC AGREEMENT.

The pleader's fee is

in suits for not more than Rs. 2,000	... three per cent.
in suits for from Rs. 2,000 to 10,000 inclusive— on Rs. 2,000 as above, and on the remainder	... two per cent.
in suits for from Rs. 10,000 to 20,000 inclusive— on Rs. 10,000 as above, and on the remainder	... one per cent.
in suits for more than Rs. 20,000— on that sum as above, and on the remainder	... half per cent.